UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

SILVER SERVICES GROUP CORP.

Respondent

and	**Cases:**	**22–CA–185684**
		22–CA–187129
LABORERS LOCAL 79, LABORERS		**22–CA–188661**
INTERNATIONAL UNION OF NORTH		**22–CA–191729**
AMERICA		**22–CA–193771**

Charging Party

Michael P. Silverstein, Esq.,
for the General Counsel.
Michael T. Scaraggi, Esq.,
for Respondent.
Raymond G. Heineman, Esq.,
*f*or the Charging Party

DECISION

STATEMENT OF THE CASE

JEFFREY P. GARDNER, Administrative Law Judge. This case was tried in Newark, New Jersey, on July 11, 12, and 13, 2017. The consolidated complaint (GC Exh. 1(k)),[1] as amended at the hearing (GC Exh. 2, Tr. 10), alleges that Respondent violated Section 8(a)(1) of the Act by making threats of retaliation if employees supported or voted for the Charging Party Union (hereafter, the Union), interrogating employees, creating impressions of surveillance, and making promises of benefits. The complaint also alleges that Respondent violated Section 8(a)(3) and (1) of the Act by reducing the hours of one employee, refusing to assign work to another employee, and effectively discharging two other employees (Tr. 22–24), all because of their union and other protected concerted activities.

In addition, the complaint alleges that, as of mid-September 2016, a majority of the employees in an appropriate unit designated the Union as their collective bargaining

[1] Abbreviations used in this decision are as follows: "Tr." for the Transcript, "Br." for party briefs, "GC Exh." for the General Counsel's exhibits, "CP Exh." for the Charging Party's exhibits, and "R. Exh." for Respondent's Exhibits. Specific citations to the transcript and exhibits are included only where appropriate to aid review, and are not necessarily exclusive or exhaustive.

representative, and, because of Respondent's unfair labor practices, a *Gissel*[2] bargaining order should issue to remedy them.[3]

Respondent denied the essential allegations in the complaint. (GC Exh. 1(m).) After the trial, the parties filed briefs, which I have read and considered. Based on those briefs and the entire record, including the testimony of the witnesses and my observation of their demeanor, I make the following[4]

FINDINGS OF FACT

I. JURISDICTION

Respondent is a corporation with offices and places of business located in Hackensack, New Jersey (the Hackensack facility) and in New York, New York (the New York facility). It provides interior demolition services in New York and New Jersey. During a representative 12-month period, it purchased and received, at its Hackensack facility, goods and supplies valued in excess of $50,000 directly from suppliers located outside the State of New Jersey. Accordingly, I find, as Respondent admits, that it is an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act. It is also admitted that the Union is a labor organization within the meaning of Section 2(5) of the Act. (GC Exh. 1.)

II. ALLEGED UNFAIR LABOR PRACTICES

THE FACTS

Background

Respondent does interior demolition for commercial and residential property in New York City and Northern New Jersey. (Tr. 515–519.) Ciro D'Amato is Respondent's owner. (Tr. 514.) Repondent's foremen include Wilson Angos , Manuel Paguay, Juan Guerrero Delcarmen, Carlos Castro, and Vincenzo Randazzo. (Tr. 497–498, 541–542.)

As of September 30, 2016, Respondent employed 61 laborer employees to perform its demolition work. (GC Exh. 5.) Laborers tear down walls and ceilings and place the debris into four-wheeled containers, which they push out of the building and load the debris into dumpsters or onto Respondent's trucks. They use jackhammers, crowbars, hammers and other tools. (Tr. 29, 198, 377, 520–521.) The laborers are paid $16 per hour. (Tr. 271, 517.)[5]

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[2] *NLRB v. Gissel Packing Co.*, 395 U.S. 575 (1969).

[3] The Union filed an election petition with the Board on September 15, 2016, and later filed unfair labor practice charges that resulted in the issuance of the consolidated complaint. The election was to be held on October 7, 2016. But, because of the unfair labor practice charges filed by the Union, the Regional Director issued an order effectively blocking and postponing the election. GC Exhs. 3–6.

[4] In its posthearing brief, the General Counsel withdrew paragraphs 13 and 14 of the complaint, which involved two separate threats. Br. 23, fn. 32. At the hearing, the General Counsel also withdrew paragraph 16 of the complaint involving the reduction in hours of one employee. Tr. 471–472.

[5] Many of the employees and the foremen speak Spanish.

Once a laborer is hired, he calls D'Amato each evening to find out where he is to work the next day. (Tr. 30, 202, 377.) Sometimes, if he is in the middle of a job, the laborer will be instructed by the foreman to report to the same location the next day. (Tr. 377–378.)

The Foremen are Supervisors and/or Agents of Respondent

According to D'Amato, the foremen "run the job," and they tell the laborers "what kind of work are they going to do today." (Tr. 543.) He also testified that foremen tell some employees to knock down walls and tell others to fill the containers, thus assigning particular jobs to particular employees. He further testified that the foremen do not have to call D'Amato before they instruct the laborers on their specific work assignments. (Tr. 543.)

The uncontradicted testimony of several employees confirmed D'Amato's description of the foremen's duties. Employee Henry Tenelema testified that the foreman would tell each laborer what he had to do because the foreman was "in charge of the job." (Tr. 33.) Employee Rogelio Roper testified that the foreman would tell him which walls to tear down and mark the walls with an "X" to designate the wall to be demolished. (Tr. 203–204.) He also testified that when he finished one assignment he asked the foreman what to do next: "We don't do things on our own. We wait for instructions from the foremen." (Tr. 205.)

Sometimes there are restrictions on how early the demolition work may begin and it is the foremen who instruct the employees when to begin; they also tell the employees when to stop working at the end of the day. (Tr. 34–35.) The foremen may also send employees home early, permit them to leave when injured, or tell them not to report the next day. (Tr. 404, 412, 454–455, 468–471.) The foremen keep track of the time worked by employees; they distribute timesheets to the employees and collect them after they are filled out. (Tr. 34–35.)[6]

Respondent runs as many as 7 or 8 jobs or as few as one or two jobs at the same time. Most of the time, the foremen are the only people with authority on a particular job site, although D'Amato sometimes visits the job sites. When he visits job sites, D'Amato admits he does not do foreman's work. (Tr. 516–517, 523–526, 542–543.) The foremen are paid considerably more than the laborers, from $29 to $35 per hour. (GC Exhs. 15 and 16.) They drive company vehicles with "Silver" on the outside, which they drive to work with needed tools for the job and which they are permitted to take home each day. (GC Exh. 8; Tr. 35, 227–228, 498.)

Respondent denied that its foremen are supervisors under Section 2(11) of the Act[7] or its agents under Section 2(13).[8] I find that the evidence set forth above clearly

[6] None of the foremen testified in this case. The Respondent only called two witnesses, D'Amato and Controller Eugene Errico.

[7] Section 2(11) defines supervisor as:

Any individual having the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely

shows that Respondent's foremen were indeed supervisors within the meaning of the Act. It is well settled that, if only one of the enumerated indicia of supervisory status listed in Section 2(11) is present, the person is a supervisor. *Oakwood Healthcare, Inc.*, 348 NLRB 686, 687 (2006). Here, the evidence shows that the foremen use their independent judgment to assign work to employees on each job and use their independent judgment to responsibly direct the work of employees while on the job. See *Oakwood*, cited above, 348 NLRB at 689–694.[9]

I also find that the evidence set forth above supports a finding that the foremen were agents of the Respondent. Not only did they assign work to the employees and direct their work while on the job, but it is clear that Respondent held them out as its agents, and employees understood that they spoke for the Respondent. As shown below, the foremen were instrumental in relaying union activity to D'Amato and antiunion messages from D'Amato to the employees. And, as shown above, employees believed that they had to follow the instructions of the foreman, particularly since D'Amato was often not present.

Respondent thus placed the foremen in a position where employees would reasonably believe that they spoke and acted for the Respondent. In these circumstances, there was at the very least apparent authority that the foremen represented the Respondent. See *Pratt (Corrugated Logistics), LLC*, 360 NLRB 304, 304–305 (2014); and *Facchina Construction Co.*, 343 NLRB 886, 886–887 (2004).

The Union Organizes the Employees

In June of 2016, officials of the Laborers Eastern Region, of which the Union is a part, began an organizing campaign among Respondent's employees. (Tr. 116–120, 275–276, 315–317.) Union representatives often visited job sites, mostly remaining outside the buildings and talking to employees on nonwork time. They also distributed union literature to employees. (Tr. 187–192, 308–309, 410–412.)

From July 16 through September 13, 2016, the union representatives collected a total of 36 signed cards from employees authorizing the Union to represent them in collective bargaining. Respondent stipulated that those cards are authentic and represent a majority of the 61 employees employed by Respondent as of September 30, 2016. (GC Exh. 5; Tr. 118–143.)[10]

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routine or clerical nature, but requires the use of independent judgment.

[8] Section 2(13) reads "In determining whether any person is acting as an 'agent' for another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling."

[9] If the foremen were not supervisors, Respondent would be in the implausible position of having one supervisor, its owner, overseeing the details of the work of 66 or 67 employees at up to eight different worksites. Moreover, the fact that the foremen make almost twice as much as the regular laborers and drive company vehicles are both secondary criteria of supervisory status that support the ultimate finding that the foremen here are supervisors. See *A.D. Conner, Inc.*, 357 NLRB 1770, 1780 fn. 31.

[10] GC Exh. 5 was submitted to the Board by Respondent as the Excelsior list defining the eligible employees in connection with the Union's election petition.

On September 15, 2016, the Union submitted the cards it had collected to the Board, along with an election petition filed with the Board seeking to represent Respondent's laborer employees. (GC Exh. 3.) On September 27, 2016, the parties entered into a stipulated election agreement (GC Exh. 4) setting the date of the election for October 7, 2016, in the following unit:

> All full-time and regular part-time laborers employed by [Respondent] at its New York and New Jersey jobsites, but excluding office clerical employees, temporary employees, professional employees, drivers, concrete workers, foremen, guards and supervisors as defined in the Act, and all other employees.

Respondent's Reaction to the Union Campaign

At one point during September 2016, the Union placed an inflated giant rat outside one of Respondent's job sites on First Avenue in Manhattan. (Tr. 208.) That same day, union officials, again outside the jobsite, distributed union t-shirts and union stickers to Respondent's laborers on the job. There was apparently a confrontation between Foreman Wilson Angos and the union representatives on the scene. Foreman Angos reported the matter to D'Amato. (Tr. 218.) Later, Angos told Employee Rogelio Roper in Spanish not to talk to the union people "or else." (Tr. 208–214, 217–220.) Angos repeated that statement to Roper on another job on another occasion. (Tr. 221–223.)

The same day that the union t-shirts and stickers were distributed, Roper and fellow employee Michael Gochnour put on the t-shirts and placed the union stickers on their hard hats. Later, that same day, D'Amato arrived on the job and told Gochnour to take the sticker off his hard hat. Angos also told Gochnour to take the sticker off. (Tr. 389–399, 458–459.) On subsequent jobs, D'Amato questioned Gochnour as to why he was talking to union representatives and told him to stay away from them. (Tr. 397.)

In mid-September, D'Amato told employee Gochnour on several occasions, including job sites at 74th Street and 62nd Street and Second Avenue, that Respondent would probably close if the Union were voted in. Foreman Angos also made that statement to Gochnour on several occasions. Angos also said that Respondent would close the company and all the employees "would be without jobs." (Tr. 404–410.)

The above findings are based on the uncontradicted testimony of Gochnour and Roper, which I credit. Foreman Angos did not testify in this proceeding, and, although D'Amato did testify, he did not deny that he made the statements attributed to him by Gochnour about Respondent's closing if the Union got in.

Employee Henry Tenelema was an active supporter of the Union, who spoke to a number of his fellow employees about supporting the Union and passed out union flyers. He also was a contact person with union officials. He dealt almost daily with Union Organizer Fernando "Vincente" Simbana. (Tr. 36–37, 42–45.)

In September, Angos approached employee Henry Tenelema and a coworker during a job at 670 Broadway. He said he had received a text from D'Amato and that D'Amato was against the Union. (Tr. 46–48.) Angos also said that if the employees chose the Union, Respondent "is going to close" and the employees would "lose [their]

jobs." (Tr. 49.) Angos then asked for Tenelema's cell phone because he said he needed to make a call. Tenelema took out his cell phone, entered his password and gave it to Angos, who walked away with Tenelema's cell phone and did not return the cell phone until about 30 minutes later. The cell phone has information about Tenelema's contacts with Union Representative Simbana. (Tr. 49–52.)[11]

On September 28, Simbana and fellow union official Renato Odelanti went to a jobsite at Broadway and Bond Street in the late afternoon. They spoke with Foreman Angos. According to Odelanti's testimony, he asked Angos in Spanish why Respondent would not deal with the Union. Angos responded that, if the Union won the election, the owner would close the company. (Tr. 278–280.) Shortly thereafter, Angos approached Tenelema and accused him of being a "rat," and that he was going to tell to D'Amato who the rat was. Tenelema denied being the rat. (Tr. 57–60.) Here again the above testimony by Odelanti and Tenelema is uncontradicted because Foreman Angos did not testify.

For the 2 or 3 weeks before the scheduled October 7 election, Respondent inserted "Vote No" documents with the employees' paychecks. The documents in both English and Spanish advised employees to reject the Union and that the Union could not guarantee them steady employment. (Tr. 224–225, 416–417; GC Exhs. 10, 18.)[12]

The Training Session the Day Prior to the Scheduled Election

On October 6, 2016, one day before the scheduled Board election, the employees were required to attend a 1-day training session at Respondent's Hackensack facility. It began at 7 a.m. and ended at 2 p.m. The foremen picked up the employees in one of Respondent's vans and transported them to the Hackensack facility. Antiunion signs were posted and painted on dumpsters throughout the facility. (GC Exh. 11.) Respondent provided breakfast and lunch that day, something it had never done before. Antiunion leaflets, in English and Spanish, were distributed to the employees by a foreman. Among other things, the leaflet stated that:

> "the union **doesn't** get you work. **NO! SILVER DOES** the union **doesn't** give you raises. **NO! SILVER DOES** . . . . If you believe you deserve more money is the union going to give you a raise **NO. SILVER WILL.**" (GC Exh. 12.)

The leaflet also said that Respondent, unlike the Union, would train the employees "for free" so they could make more money. (GC Exh. 12.) Foremen told employees that they were complaining about wanting to make more money, and today was the day that Respondent would show them how they could make more money by virtue of the training they were receiving. The foremen then conducted demonstrations on how to use certain tools and a range of heavy equipment.

Respondent had never before offered this kind of training, or any training, to employees. (Tr. 72, 421–422.) At some point during the training session, D'Amato

[11] The testimony by Tenelema regarding his cellphone was also uncontradicted because Angos did not testify in this case.

[12] The General Counsel has not alleged that the insertion of these documents in the employees' paychecks constituted independent violations of the Act.

spoke to the employees through a Spanish translator, telling them not to vote for the Union and that the training showed them what Respondent could do for them. (Tr. 64–72, 417–427.) The above is based on the credible and mutually corroborative testimony of Gochnour and Tenelema, as well as documentary evidence.[13]

At about 11 a.m. during the October 6 training session, D'Amato approached Tenelema and told him that he was talking to the Union too much and that people were saying Tenelema was the "rat." When Tenelema asked who said that, D'Amato referred to two people, including Angos, who D'Amato said was "suspicious" of Tenelema. (Tr. 73–74.) Tenelema also testified about another conversation with D'Amato later that day, during which Tenelema said that D'Amato touched him inappropriately. (Tr. 74–76.) D'Amato denied touching Tenelema inappropriately, but did not specifically deny talking to Tenelma about being a rat, although he did testify that he talked to Tenelema about his hours that day. (Tr. 532–533.) To the extent that this amounted to a denial that he talked to Tenelema about the latter being a "rat," I credit Tenelema rather than D'Amato for reasons stated in the credibility section of this decision.

That same day, October 6, 2016, the Union filed unfair labor practice charges that are the subject of this case. And later the same day, the Regional Director issued an order postponing the election scheduled for October 7, postponing it indefinitely. (GC Exh. 6.)

Respondent Reduces Hours and Denies Work to Union Activists

Tenelema worked regularly from May 1 through early June. (Tr. 30.) Payroll records confirm that Tenelema also worked on a regular basis in the third quarter of 2016, through some point in early October. In the 15 pay periods covered by these records, he worked 40 hours in seven of them, between 32 and 36 hours in six of them, and 22 hours in the remaining period. He also worked overtime in seven pay periods. Respondent's payroll records show that he last worked hours for Respondent shortly after the October 6 training session. (GC Exh. 15 (p. 186) and GC Exh. 16 (p. 176).)

According to Tenelema's uncontradicted testimony, the week after the training session, Juan Delcarmen, his foreman, told him that he would no longer be getting day hours. (Tr. 77–78.) Throughout the month of October 2016, Tenelema called D'Amato daily for work, as he had done in the past. He also sent text messages to D'Amato, which were documented and received in evidence. D'Amato told him every time that there was no work for him. He never worked for Respondent again. (Tr. 78–81, 96, 111–113; GC Exh. 13.)

Roper worked for Respondent regularly from May 2016 through late September 2016. (Tr. 197–198; GC Exh. 15 (p. 170).) He credibly testified that he did not attend

[13] D'Amato and Controller Errico testified briefly about the training session; they confirmed much of the testimony of Tenelema and Gochnour about what transpired at the training session (Tr. 486–489, 530–531, 544–545), although D'Amato perfunctorily denied speaking with employees about the Union during the training session. (Tr. 537–538.) I do not credit his testimony in this respect because I found him generally to be an unreliable witness, as shown in more detail later in the credibility section of this decision. I credit instead the mutually corroborative testimony of Tenelema and Gochnour, who were both credible witnesses.

the training session on October 6 and he thereafter called called D'Amato repeatedly for work as he had done in the past. When he reached D'Amato, D'Amato would tell him he had no work for him. After 2 weeks or so, Roper stopped calling. (Tr. 229–233, 255.)[14]

Respondent's payroll records show that, at the same time that Respondent was refusing to assign work to Roper and Tenelema, it hired and was giving work to newly hired laborers. (GC Exh. 16; Tr. 507–512.) The General Counsel prepared the following chart of hours worked by the new employees based on the payroll records in evidence. The chart (GC Br. 18–19) shows the dates of hire, first weeks of work, and the hours worked for those new employees:[15]

Employee Name	Hire Date	First Payroll Period	Hours Worked
Yandri Loaiza (96)	10/11/16	Week Ending 10/15	40 (REG); 15 (OT)
Darwin Cabrera (22)	10/15/16	Week Ending 10/15	8 (REG)
Darwin Quichimbo (142)	10/17/16	Week Ending 10/22	40 (REG); 24 (OT)
Mario Mejia (114)	10/19/16	Week Ending 10/22	25 (REG)
Janira Navas (124)	11/12/16	Week Ending 11/5	40 (REG); 9.5 (OT)
Omar Watson (188)	11/14/16	Week Ending 11/12	37 (REG)
Rashid Clinton (37)	11/8/16	Week Ending 11/12	29 (REG)
Santiago Rivera (153)	11/8/16	Week Ending 11/12	40 (REG); 7 (OT)
Damon Gilmore (65)	11/15/16	Week Ending 11/19	21 (REG)
Juan Gomez (72)	11/21/16	Week Ending 11/26	36 (REG)
Rubin Gomez (73)	12/5/16	Week Ending 12/10	40 (REG)
Angel Camas (26)	12/5/16	Week Ending 12/10	40 (REG)

As the payroll records demonstrate, by way of example, employee Loaiza worked 40 hours each of his first 6 weeks and also worked overtime (no less than 9.5 hours of OT in each of these first 6 pay periods). (GC 16, page 96.) Employee Quichimbo worked 40 hours in 9 of the first 10 weeks with Respondent, plus a minimum of 14.5 hours of overtime. (GC 16, p. 142.)[16] Employee Navas worked 40 hours in 7 of the first 8 weeks with Respondent, and in each of these 7 weeks, she worked a

[14] D'Amato did not specifically deny receiving calls from Roper and Tenelema, as they testified. The closest he came to testifying at all about the calls was in response to questions about getting repeated calls from employees asking for work. His testimony was that he gets a lot of calls and does not always answer or return them all because "sometime [sic] that phone don't stop." (Tr. 547–548.)

[15] The numbers in parentheses next to the name of the employee indicate the page in Respondent's payroll records (GC Exh. 16) where the information appears.

[16] The only week Quichimbo worked fewer than 40 hours, the week of 11/26, he worked 32 hours. (GC 16, page 142.)

minimum of 7.5 hours of overtime. (GC 16, page 124.)[17] And with respect to employee Cabrera, who appears to have worked fewer hours, I note the following week, 10/22/16, he worked 40 regular hours and 20 hours of overtime. (GC 16, page 22).

Employee Gochnour worked every week in the third and fourth quarters of 2016, but his hours varied from a low of 8 to a high of 40 plus overtime for several weeks. He worked 40 hours in 4 weeks in the last quarter of 2016, including twice with added overtime; he also worked 39, 36 and 29 hours per week in the fourth quarter. (GC Exhs. 15 (p. 72) and 16 (p. 68).) The record does not contain payroll records for the year 2017, but Gochnour testified that he worked for Respondent during an unspecified period in 2017. It was only after he could not get enough hours, and after complaining to D'Amato that he needed more hours, that he "voluntarily" left Respondent's employ to return to being a union plumber. (Tr. 428–432.)[18]

Credibility

My factual findings set forth above are based primarily on uncontradicted testimony and authentic documentary evidence. To the extent there are conflicts, I find that the three employee witnesses, Tenelema, Roper, and Gochnour, were credible. They responded directly to questions from counsel on direct and cross-examination, and appeared intent on telling the truth regardless of how it might affect the case. Their testimony was consistent and appeared forthright. The union witnesses, Simbana, Odelanti, Taveras, and Fawcett, whose testimony was uncontradicted, were likewise credible; they recounted specific details, and were mutually consistent and forthright.

The two management witnesses, D'Amato and Errico, were not as forthright and both seemed to be evasive, straining to support the litigation positions of Respondent. I specifically discredit the testimony of D'Amato where it conflicts with employee testimony. For example, I found his testimony on Tenelema's loss of work extremely

[17] The only week Navas worked fewer than 40 hours, the week of 11/26, she worked 32 hours.

[18] The original complaint had alleged that Respondent suspended Gochnour for 3 days in September 2016, but, as counsel for General Counsel states in its brief, that allegation was dropped when paragraph 15 of the complaint was amended to allege instead a reduction of hours for Gochnour in late August 2016. (GC Exh. 2; GC Br. 6, fn. 7.) The reference in the brief comes after a discussion between Foreman Angos and Gochnour, with a follow-up call to D'Amato that took place in July 2016. (Tr. 383–388; GC Exh. 55.) Citing to paragraph 12(a) of the complaint, in its brief (GC Br. 28–29), counsel for the General Counsel alleges that Respondent threatened to reduce Gochnour's hours in retaliation for his union support in violation of Section 8(a)(1). In support of that allegation (GC Br. 9 and 28–29), counsel for the General Counsel recites testimony by Gochnour that, at the end of the day at a Carlton Hotel job in September 2016, another foreman, Manuel Paguay, told him not to come to work there the next day and to call D'Amato, which he did; in response, D'Amato told Gochnour, like he had in July, that he had no work for him the next day. There was, however, no threat in Gochnour's testimony on this matter. His testimony was that Paguay wagged his finger at Gochnour while he was talking to a union representative at a nearby Dunkin Donuts. Tr. 410–414. More importantly, paragraph 12(a) of the complaint alleges that D'Amato threatened an employee in September 2016 at the Hackensack facility. There is enough confusion in the testimony and differences between the testimony and the complaint allegations to make me hesitant about making an unfair labor practice finding on this issue. I therefore decline to do so.

disingenuous. Indeed, his testimony about not returning the calls of employees asking for work discussed in footnote 13 seemed almost flippant.

I also found unbelievable D'Amato's testimony, contrary to the mutually corroborative testimony of employees Tenelema and Gochnour, denying that he had a meeting asking employees not to vote for the Union at the end of the training session. The objective evidence shows that the whole training session was infused with exhortations to employees to vote against the Union in the election that was scheduled for the very next day. I also specifically discredit D'Amato's perfunctory denials that he refused to assign work to employees or that he talked about the Union with employees when he visited the job sites.

ANALYSIS

A. The Section 8(a)(1) Violations

As shown above, the credited uncontradicted testimony shows that, on two separate occasions, Foreman Angos told employee Roper to stop talking to union representatives "or else." The "or else" comment is well understood in the vernacular; it was an ominous suggestion of unspecified reprisals. Such comments amount to coercive threats that violate the Act. *See H.A. Kuhle Company*, 205 NLRB 88, 101 (1973); and *Pratt (Corrugated Logistics),* LLC, 360 NLRB 304, 312 (2014).[19]

The uncontradicted credited testimony also shows that, sometime in September, Angos asked for and retained employee Tenelema's cell phone, which had his text messages with a union agent on it. A few days later, after Angos met with union representatives on a job, Angos approached Tenelema and accused Tenelema of being the "rat," who was communicating with the Union. Despite Tenelema's denial, Angos told Tenelema he would report to D'Amato that Tenelema was the "rat."

Indeed, according to Tenelema's credited testimony, D'Amato himself brought up the subject with Tenelema during the October 6 training session. He repeated that Tenelema was talking too much and was viewed as a rat, thus making Angos suspicious of him. I find that, from each of these incidents, Tenelema could "reasonably assume" that his protected and union activities were under surveillance. The incidents thus violate Section 8(a)(1) of the Act. See *Greater Omaha Packing Co*., 360 NLRB 493, 495 (2014); and *Flexsteel Industries*, 311 NLRB 257 (1993).[20]

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[19] Counsel for General Counsel asks in its brief (GC Br. 31) that I make an additional finding of a similar violation based on the testimony that D'Amato and Angos made similar suggestions that employee Gochnour stay away from the Union, even though there is no specific allegation to that effect in the complaint. I decline to make that finding because it would be unfair to the Respondent, who was not notified that this testimony would result in an unfair labor practice finding. Such a finding would also be cumulative because it would not change the remedial order based on the violation found and discussed in the text above.

[20] In its brief (Br. 14, 27–28), counsel for General Counsel, citing to paragraphs 12(b) and (c) of the complaint, alleges that, on the day of the training session, D'Amato coercively interrogated Tenelema and created the impression that Tenelema was being surveilled. I note that, in paragraph 12(b), the date given for its allegation is October 5. That is apparently a clerical error, because paragraph 12 generally deals with D'Amato's alleged violations during the October 6 training session; and the other allegations in paragraph 12 all have the correct

The credited testimony further shows that Respondent made threats to Employees Tenelema and Gochnour that the company would close if the employees chose to be represented by the Union. Angos made this threat to Tenelema at the 670 Broadway job, adding that the employees would then lose their jobs. He also made a similar threat several times to Gochnour. D'Amato also made this threat repeatedly to Gochnour on several jobs. None of these statements about the Respondent closing and the employees losing their jobs were accompanied by objective facts or demonstrative probable consequences beyond the Respondent's control. They were thus serious threats of retaliation violative of Section 8(a)(1) of the Act. See *NLRB v. Gissel Packing Co.*, 395 U.S. 575, 618 (1969); and *Dallas & Mavis Specialized Carrier Co.*, 346 NLRB 253 (2006).

The basic facts surrounding the October 6 training session are not disputed and the Respondent clearly promised employees benefits for rejecting the Union. In the leaflets distributed by Respondent and in credited testimonial evidence in this case, Respondent made explicit promises of free training and better wages, something the Union could not give them. Those statements were backed up by oral representations by foremen. Indeed, I find the training session itself, particularly in view of its unusual character and free food, was a cover for antiunion campaigning on the eve of the Board election. Antiunion signs and paintings decorated the Respondent's Hackensack yard. The employees could not miss the message: Stick with us and reject the Union and you can get greater benefits. Such conduct is clearly violative of the Act. See *McCarty Processors*, 292 NLRB 359, 364 (1989).

B. The Section 8(a)(3) and (1) Violations

The General Counsel alleges that Respondent denied work to employees Roper and Tenelema for their union activities and thus effectively discharged them. The General Counsel also alleges that Respondent discriminatorily reduced Employee Gochnour's hours for the same reason.

In determining whether an employer's adverse employment actions are unlawful, the Board applies the mixed motive analysis set forth in *Wright Line*, 251 NLRB 1083 (1980), enf'd. on other grounds 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982), approved in *NLRB v. Transportation Management Corp.*, 462 U.S. 393 (1983). Under *Wright Line*, the General Counsel must satisfy an initial burden of showing, by a preponderance of the evidence, that the employee's protected activity was a motivating factor in an employer's adverse action.

If the General Counsel satisfies that initial burden, the burden shifts to the employer to show it would have taken the same action even absent the employee's protected activity. The employer does not meet its burden merely by showing it had a legitimate reason for the action; it must demonstrate, persuasively, that it would have taken the same action in the absence of the protected conduct. And if the employer's proffered reasons are pretextual—either false or not actually relied on—the employer

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October 6 date. Regardless, although I find, as shown above, a violation in creating an impression of surveillance, I do not view the same conduct or any conversation between D'Amato and Tenelema that day as amounting to coercive interrogation. I shall therefore dismiss paragraph 12(c) which deals with interrogation.

fails by definition to meet its burden of showing it would have taken the same action for those reasons absent the protected activity. See *Boothwyn Fire Company No. 1*, 363 NLRB No. 191, slip op. at 7 (2016); *Pro-Spec Painting, Inc.,* 339 NLRB 946, 949 (2003); and *Hays Corp*., 334 NLRB 48, 49 (2001).

I find that the General Counsel has proved that Respondent discriminatorily stopped giving Roper and Tenelema work and thus effectively discharged them. Respondent did not offer any legitimate business reasons to explain why it denied work to Tenelema and Roper. I also find that the General Counsel has not proved a violation in the alleged reduction of hours for Gochnour.

The Effective Discharge of Employees Tenelema and Roper

Tenelema was probably the strongest union supporter among the employees. He distributed union flyers to fellow employees and spoke to them in favor of the Union. He was also the conduit between the employees and the union representatives. He spoke to Union Representative Simbana almost daily. The Respondent's union animus is shown by its many unfair labor practices, including the promises of benefits at the October 6 training session. But there is also evidence that Respondent addressed specific unfair labor practices to Tenelema directly.

Foreman Angos obviously knew of Tenelema's prominent role in the campaign and threatened Tenelema that Respondent would close and the employees would lose their jobs if the Union won representation rights. A few days after using Tenelema's cell phone with union contact information on it, and after talking to union representatives, Angos approached Tenelema and called him a "rat." Angos threatened to notify D'Amato of his views. Later, on October 6, D'Amato in effect confirmed that he had been notified of Angos' view of Tenelema. At that time, D'Amato told Tenelema to stay away from the Union and also told him that he was viewed with suspicion.

As shown in more detail in the above factual statement, shortly after the October 6 meeting with D'Amato, Tenelema saw his hours reduced. First, he was restricted to nighttime hours; then he stopped getting work altogether, despite repeated calls to D'Amato, as was the normal procedure for getting work with Respondent. The timing of Tenelema's sudden loss of work is strong support for a finding of discrimination. See *NLRB v. Rain-Ware,* 732 F.2d 1349, 1354 (7th Cir. 1984). Further strong support is shown by the disparate treatment of Tenelema, which is confirmed by the chart set forth in the factual statement showing that, at the same time Tenelema was being denied work, Respondent hired several new employees, who worked almost full time hours throughout the period Tenelema was denied work. In these circumstances, I find that Tenelema was given fewer hours, then no work at all, effectively being discharged—and the reason was Tenelema's union activities.

In its brief, Respondent offers several defenses to the allegation that Tenelema was effectively discharged. (R. Br. 4–6.) First, the brief alleges that Tenelema was not actually "fired." But no magic words are needed for an employee to know he is no longer wanted; the words made famous by The Apprentice Reality Show, "you're fired," are not required to be uttered. The test for whether an employer's words or conduct amount to a discharge depends on whether such words or conduct "would reasonably lead the [employee] to believe that [he] had been discharged. . . . It is sufficient if the words or actions of the employer would logically lead a prudent person to believe his

tenure had been terminated." *Donald Sullivan & Sons, Inc*., 333 NLRB 24, 29 (2001). Those words and actions must be viewed through the eyes of the employee. *Flat Dog Productions, Inc.*, 331 NLRB 1571 (2000), citing and quoting from *Brunswick Hospital Center, Inc*., 265 NLRB 803, 810 (1982).

Here, the protocol for employees was to call D'Amato daily to get a work assignment location. Tenelema did that religiously and was repeatedly told there was no work for him. It was obviously reasonable for him to assume he was terminated. In the circumstances, this was an effective discharge.

Moreover, in an apparent contradiction, the Respondent's brief suggests that Tenelema's refusal to work on Saturdays caused his loss of hours and that Tenelema continued to get hours after his refusal to work on Saturdays. But, more importantly, there is no testimony from D'Amato or anyone else that this was a reason for his loss of work. Respondent also asserts that Tenelema failed to perfect his requests to D'Amato for work because they were texts rather than calls to D'Amato's cell phone. However, the record clearly shows that Tenelema did both. (Tr. 78–81, 96, 112; GC Exh. 13.)

Finally, Respondent argues that construction work in general and Respondent's business in particular has ups and downs and there is no guarantee of work. This argument is specious in view of the documentary evidence of the new hires who were working substantial hours for Respondent at the same time Tenelema was seeking to continue his employment.

Respondent's denial of work to, and effective discharge of, Roper was likewise discriminatory. Roper too was an activist on behalf of the Union. He wore a union t-shirt to work and affixed a union pin on his hard hat. There is no doubt of Respondent's knowledge of Roper's support of the Union. And the same unfair labor practices cited above in the discussion of Tenelema's loss of work apply likewise to Roper's loss of work and provide the necessary union animus to his situation. Roper too was subjected to unfair labor practices directed at him. He was told to stay away from the Union "or else."

As shown in the above factual statement, Roper suffered a significant diminution in hours in early October, about the time of the training session. Then nothing. Like Tenelema, Roper continuously called D'Amato for work, but was told there was no work for him. The timing of his loss of work and the disparate treatment accorded him by the hiring of new employees for work that was available but not given to him apply to Roper, just as it did for Tenelema. In these circumstances, I find that, like Tenelema, Roper was subjected to fewer hours and effectively discharged because of his union activities.[21]

Reduction in Gochnour's Hours

In its brief, counsel for General Counsel alleges that "[b]y reducing Gochnour's hours at various times in the summer, fall and winter [of 2016], Respondent violated Section 8(a)(3) of the Act." (Br. 39.) However, the complaint amendment covering this

[21] To the extent that Respondent's arguments in its brief apply to Roper, my rejection of them in the above discussion of Tenelema's situation applies as well to Roper.

allegation states that "in about late August 2016, Respondent reduced the work hours of its employee Michael Gochnour" because of his union activities. (GC Exh. 2.)[22]

There is no doubt that Gochnour was a leading and well known supporter of the Union. He signed a union authorization card, and wore a union shirt and a union button when at work. He was singled out and addressed numerous times by Foreman Angos and D'Amato with threats that Respondent would close down, thereby putting employees out of work. And, according to his testimony (see footnote 13, above), he was sent home twice, once in July and once in September, and told there was no work for him. This was closer in time to his union activities. But the payroll records show that Gochnour continued to obtain roughly the same hours throughout the last two quarters of 2016. There are no payroll records to show what his hours were before July 1, 2016 and after January 1, 2017, but his hours in the third quarter were varied, with no discernible pattern. In fact, after the Board election was postponed and the unfair labor practices ceased, Gochnour's hours steadily increased. In the last several pay periods in 2016 his hours were as follows: 40 plus 15 hours of overtime; 40 plus 4.5 hours of overtime; 40 plus 10 hours of overtime; 39; 36; 29; 40 and 14.

Nor is there any evidence that would suggest union retaliation was the reason for Gochnour's alleged reduction in hours. There was certainly none after October 6th, the date of the training session. Moreover, his almost full time hours in the last quarter of 2016 not only show that he was not being retaliated against at that time, but it also shows that any alleged discriminatory loss of hours before that period was not only not held against him, but did not likely result in unlawful retaliation at an earlier point. In these circumstances, I cannot find that the General Counsel has shown an identifiable pattern of reduction in hours or that such reduction was caused by Gochnour's union activities. I shall therefore dismiss the complaint allegation that Respondent violated the Act by reducing Gochnour's hours for discriminatory reasons.[23]

C. The *Gissel* Bargaining Order

In *NLRB v. Gissel Packing Co.*, 395 U.S. 575, 611 (1969), the Supreme Court approved the issuance of a bargaining order remedy where the employer has committed serious unfair labor practices sufficient to undermine a union's strength and to destroy the laboratory conditions for a fair election. The Supreme Court identified two categories of cases in which employer misconduct warrants the imposition of a bargaining order based on a union's majority reflected in signed authorization cards:

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[22] I am not certain that the description in the General Counsel's brief is consistent with the more limited allegation in the relevant complaint amendment. But I need not address the issue because of my ultimate dismissal that any violation occurred on this matter.

[23] As indicated above at footnote 15, Gochnour testified that, in September 2016, he was told by Foreman Paguay that he could not come back to the Carlton Hotel job the next day and to call D'Amato, which was normal procedure. D'Amato's response that he had nothing for Gochnour the next day does not support a finding that that subsequent losses of hours were due to Gochnour's union activities. The only testimony that could possibly support that finding was that, during a meeting that Gochnour was having with a union representative off-site on a break at a nearby Dunkin Donuts earlier in the day, Paguay wagged his finger at Gochnour. (Tr. 411–412.) This is slim evidence of a causal connection between protected activity and an adverse employment action. I cannot make a finding that even this very limited asserted loss of hours for the Carlton Hotel job was discriminatorily motivated.

Category I cases involve outrageous and pervasive unfair labor practices that make a fair election impossible. Category II cases involve less extraordinary and less pervasive unfair labor practices, which have nonetheless undermined majority union support through authorization cards, rendering the possibility of a fair election slight. 395 U.S. at 610, 614. See also *Milum Textile Services Co.*, 357 NLRB 2047, 2055 (2011), and cases there cited.

Here, the General Counsel asserts the necessity of a bargaining order on the grounds that this is a Category II case. I agree.

First of all, it is clear that, by September 13, 2016, the Union had the support of a majority of the Respondent's employees based on signed authorization cards: 36 out of a total of 61 employees. It is also clear that the Respondent's unfair labor practices were serious enough to render the possibility of a fair election slight.

The discharge of leading union adherents, such as was involved here with the effective termination of Tenelema and Roper, is well recognized as a "hallmark" violation that lingers in the minds of other employees and makes a fair election in the future unlikely. Other unfair labor practices here are of the same character, especially the threat, made on several occasions, that the Respondent would cease operations, thus causing the loss of jobs. That the same threat was also made by the owner of the Respondent carries a special impact. And the promise of benefits, made to all unit employees at the training session of October 6, the day before the scheduled election, makes clear not only the Respondent's intent to interfere with an election, but also the widespread impact of its unfair labor practices.

Respondent's owner addressed the employees on this occasion, exhorting them to reject the Union. Respondent's other unfair labor practices also had a coercive effect. Finally, there is credited, uncontroverted, and unobjected-to testimony from union representatives that, at some point shortly before the scheduled election, the employees, who previously had been willing to talk to them and signed authorization cards, were thereafter reluctant to talk with them. Some explicitly mentioned the unfair labor practices, but, even if they did not, such reluctance clearly warrants the inference that the unfair labor practices had a lingering impact. (Tr. 149–152, 157–160, 287–292, 303, 320–323.) All of these factors warrant a bargaining order remedy in this case, as they did in *Milum Textile*, cited above, 357 NLRB at 2055–2056.

Conclusions of Law

1. By threatening employees with unspecified reprisals for engaging in union activities, threatening them with loss of jobs due to Respondent going out of business if the employees selected the Union to represent them, ordering them to stay away from union representatives, creating the impression that their union activities were under surveillance, and promising higher wages and better benefits if the employees rejected the Union, Respondent violated Section 8(a)(1) of the Act.

2. By not granting employees Roper and Telemena work on and after October 8, 2016, despite their repeated requests for work, Respondent effectively discharged them and violated Section 8(a)(3) and (1) of the Act.

3. As of September 30, 2016, the Union had the majority support of the Respondent's employees in the following appropriate unit:

> All full-time and regular part-time laborers employed by [Respondent] at its New York and New Jersey jobsites, but excluding office clerical employees, temporary employees, professional employees, drivers, concrete workers, foremen, guards and supervisors as defined in the Act, and all other employees.

4. The above violations constitute unfair labor practices that affect commerce within the meaning of the Act.

5. By committing the unfair labor practices set forth above, the Respondent has rendered the chances of having a fair election slight and employee sentiments expressed in valid authorization cards are better protected by a bargaining order.

Remedy

Having found that Respondent has engaged in certain unfair labor practices, I shall order it to cease and desist therefrom and to take appropriate affirmative action designed to effectuate the policies of the Act.

Since Respondent unlawfully effectively discharged employees Tenelema and Roper, it must offer them reinstatement to their former positions, or, if those positions do not exist, to substantially equivalent positions, without prejudice to their seniority or other rights or privileges previously enjoyed. Respondent must also make them whole for any loss of earnings or benefits suffered by Respondent's unlawful actions. Backpay shall be computed in accordance with *F.W. Woolworth Co.*, 90 NLRB 289 (1950), with interest as prescribed in *New Horizons*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB 6 (2010). Respondent shall file a report with the Social Security Administration allocating backpay for these employees to the appropriate calendar quarters and compensate employees for the adverse tax consequences, if any, of receiving one or more lump-sum backpay awards covering periods longer than 1 year. See *AdvoServ of New Jersey, Inc.*, 363 NLRB No. 143 (2016).

On these findings of fact and conclusions of law, and on the entire record, I issue the following recommended:[24]

ORDER

The Respondent, its officers, agents, successors, and assigns shall

1. Cease and desist from

[24] If no exceptions are filed as provided in Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Board's Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

(a) Threatening employees with unspecified reprisals for engaging in union activities, threatening them with loss of jobs due to Respondent going out of business if the employees select the Union to represent them, ordering them to stay away from union representatives, creating the impression that their union activities were under surveillance, and promising higher wages and better benefits if the employees reject the Union.

(b) Denying employees work and effectively discharging them because of their union or other protected activity.

(c) In any other manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain in good faith with Laborers Local 79, Laborers International Union of North America as the exclusive bargaining representative of the employees in the following appropriate unit concerning terms and conditions of employment, and, if an understanding is reached, embody the understanding in a signed agreement:

> All full-time and regular part-time laborers employed by [Respondent] at its New York and New Jersey jobsites, but excluding office clerical employees, temporary employees, professional employees, drivers, concrete workers, foremen, guards and supervisors as defined in the Act, and all other employees.

(b) Within 14 days from the date of this Order, offer Henry Tenelema and Rogelio Roper full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

(c) Make Henry Tenelema and Rogelio Roper whole for any loss of earnings and other benefits suffered as a result of their unlawful terminations in the manner set forth in the remedy section of this decision.

(d) Compensate Henry Tenelema and Rogelio Roper for their search-for-work and interim employment expenses regardless of whether those expenses exceed their interim earnings.

(e) Compensate Henry Tenelema and Rogelio Roper for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and file with the Regional Director for Region 22, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years for each employee.

(f) Within 14 days from the date of this Order, remove from its files any reference to the unlawful termination of employees Tenelema and Roper, and within 3 days thereafter, notify the employees in writing that this has been done and that

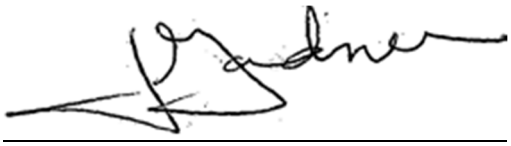
the terminations will not be used against them in any way.

(g) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide, at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(h) Within 14 days after service by the Region, post at its Hackensack, New Jersey and New York, New York facilities, copies of the attached notice marked "Appendix"[25] in both English and Spanish. Copies of the notice, on forms provided by the Regional Director for Region 22, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, the notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed either of the facilities involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since October 6, 2016.

(i) Within 21 days after service by the Region, file with the Regional Director for Region 22 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., November 3, 2017



Jeffrey Gardner
Administrative Law Judge

[25] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT do anything to prevent you from exercising these rights.

WE WILL NOT threaten you with unspecified reprisals or with loss of jobs due to our going out of business if you engage in union activities or support Laborers Local 79, Laborers International Union of North America (the Union).

WE WILL NOT order you to stay away from union representatives or create the impression that your union activities are being watched.

WE WILL NOT promise higher wages or better benefits if you reject the Union.

WE WILL NOT deny you work or terminate or discharge you for your union or other protected activity.

WE WILL NOT, in any other manner, interfere with, restrain, or coerce you in the exercise of the rights set forth above.

WE WILL, on request, bargain in good faith with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the following bargaining unit:

All full-time and regular part-time laborers employed by us at our New York and New Jersey jobsites, but excluding office clerical employees, temporary employees, professional employees, drivers, concrete workers, foremen, guards and supervisors as defined in the Act, and all other employees.

WE WILL, within 14 days from the date of this Order, offer Henry Tenelema and Rogelio Roper full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

WE WILL make Henry Tenelema and Rogelio Roper whole for any loss of earnings and other benefits suffered as a result of their unlawful terminations in the manner set forth in the remedy section of this decision.

WE WILL compensate Henry Tenelema and Rogelio Roper for their search-for-work and interim employment expenses regardless of whether those expenses exceed their interim earnings.

WE WILL compensate Henry Tenelema and Rogelio Roper for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and file with the Regional Director for Region 22, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years for each employee.

WE WILL, within 14 days from the date of this Order, remove from our files any reference to the unlawful termination of employees Tenelema and Roper, and within 3 days thereafter, notify the employees in writing that this has been done and that the layoffs will not be used against them in any way.

SILVER SERVICES GROUP CORP.

(Employer)

Dated _____ By _____

(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

20 Washington Place, 5th Floor, Newark, NJ 07102–3110
(973) 645–2100, Hours: 8:30 a.m. to 5 p.m.

The Administrative Law Judge's decision can be found at www.nlrb.gov/case/22-CA-185684 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273–1940.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (862) 229–7055.